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Myers Andras Sherman LLP  
19900 MacArthur Blvd.  
Suite 1150  
Irvine CA 92612

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JUL 28 2009

**OFFICE OF PETITIONS**

In re Application of	:
Victor R. Sanchez, Alberto	:
Ceja, and Rigoberto Anguiano	:
Application No. 09/753,171	:
Filed: December 29, 2000	:
Attorney Docket No. CAS1PAU24R2	:
Title: METHODS FOR HANDLING	:
MASA	:

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed May 21, 2009.

This renewed petition is **GRANTED**.

The present application is for the reissue of U.S. Patent number 5,635,235, which issued on June 3, 1997, from application number 08/476,198.

On December 29, 2000, the present reissue application was filed, identifying Victor R. Sanchez, Alberto Ceja, and Rigoberto Anguiano as joint inventors. On January 14, 2008, a final Office action was mailed, which stated that "the reissue oath/declaration filed with this application is defective..."<sup>1</sup>

Together with a response to the January 14, 2008 final Office action, an original petition pursuant to 37 C.F.R. § 1.47(a) was filed on July 9, 2008, along with, *inter alia*, a three-month extension of time so as to make timely the response, the petition fee, the surcharge associated with the late submission of an oath or declaration, an identification of the last known address of

<sup>1</sup> Final Office action of January 14, 2008, paragraph 3.

each non-signing joint inventor, a statement that a complete copy of the application was sent to each non-signing joint inventor (Victor R. Sanchez and Alberto Ceja), and a reissue declaration that has been executed by Mr. Anguiano.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

- (1) the petition fee of \$200;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
- (3) a statement of the last known address of the non-signing inventors;
- (4) either
  - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventors for review and proof that the non-signing inventors refuses to join in the application or
  - b) proof that the non-signing inventors cannot be found or reached after diligent effort, and;
- (5) a declaration which complies with 37 C.F.R. § 1.63.

The original petition pursuant to 37 C.F.R. § 1.47(a) was dismissed via the mailing of a decision on March 23, 2009, which stated that requirements (1) - (3) of 37 C.F.R. § 1.47(a) had been satisfied.

With this renewed petition, Petitioner has pointed out that, after a complete copy of the reissue application was sent to both of the non-signing inventors, these mailings were met with silence from both inventors.<sup>2</sup> Moreover, the legal representative of Mr. Ceja expressly indicated that his client would not execute the declaration.<sup>3</sup>

Still further, Petitioner has included a statement under 37 C.F.R. § 3.73(b). It is noted that the written consent to the reissue application by the Assignee was received on December 14, 2007. As such, the reissue declaration that was submitted on July 9, 2008 can now be accepted by the Office.

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<sup>2</sup> Renewed petition, page 2.

<sup>3</sup> Id.

It follows that each of the five requirements of 37 C.F.R. § 1.47(a) has been satisfied.

Therefore, the petition is **GRANTED** and this application is hereby accorded Rule 1.47(a) status.

As provided in 37 C.F.R. § 1.47(a), the Office will forward notice of this application's filing to the non-signing inventors at the respective addresses given on the declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

After the mailing of this decision, the Technology Center will be notified of the same.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.<sup>4</sup> All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Kenneth M. Schor/

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Kenneth M. Schor  
Senior Legal Advisor  
Office of Patent Legal Administration

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<sup>4</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).